

## Bar Passage Trends Report

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The University of Denver Sturm College of Law is on the forefront of educational theory and application in equipping its graduates to successfully surmount the first professional hurdle in serving as attorneys: successfully passing the bar exam. The purpose of this report is to survey the educational tools implemented by the law school for achieving bar success, outline the historical trends and recent improvements in bar passage rates, and provide a reasoned forecast of future bar passage expectations as the law school implements its new strategic plan adopted in late 2009.

As background, the bar exam serves as the initial licensure exam for graduates to serve in most states as attorneys. Indeed, the vast majority of our yearly graduates – approximately 86 percent – take the Colorado Bar Exam with residual graduates often taking alternative exams in other jurisdictions of their chosen future employment. In most states, the bar exam is offered just twice per year, in February or July, with bar passage results publicly announced by the state supreme courts. In addition, many of our graduates report that job offers are contingent upon successful passage of the bar exam. Consequently, the bar exam serves as a pivotal high-stakes measurement of our graduates' competence to practice law in the State of Colorado and other jurisdictions as they progress in their path to serving as professional attorneys.

In Colorado, the bar exam has recently undergone fundamental changes both in terms of content and format which have rapidly increased the level of complexity and the degree to which the exam interfaces with the experiential practice of law. As background, the Colorado Bar Exam is a two-day exam consisting of eight essays and two performance tests on the first day of administration with 200 multiple-choice questions on the second day of the exam. Starting in July 2009, the Colorado Bar Exam starting purchasing all three components – essay questions, performance test problems, and multiple-choice questions – from the National Conference of Bar Examiners – a non-profit entity closely aligned with most jurisdictions in the United States. In particular, the new essay format places a greater emphasis on practitioner subjects such as Business Associations (Agency, Partnership, Corporations, and LLC), Wills and Trusts, Commercial Law (Commercial Paper and Secured Transactions), Family Law, and Civil Procedure with approximately two-thirds of the eight essay questions selected from these topical areas. In contrast, the previous essay exam format focused substantially on the fundamental subjects such as Contracts/Sales, Constitutional Law, Criminal Law, Criminal Procedure, Evidence, Property, and Torts – core courses for which most law school graduates had taken during their law school career. Presently, the current essay portion of the Colorado Bar Exam only tests two or three of these fundamental subjects during each exam administration. In addition, starting this summer in July 2010, the Colorado Bar Exam has added a new subject to its required essay content – Conflict of Laws. Moreover, the essay portion of the exam, in contrast to previous exams, can test multiple subjects in one essay as so-called “cross-over” questions, which increases both the difficulty and the realism of the exam. Finally, the essay exam has altered its narrative format to serve more closely as an experiential tool,

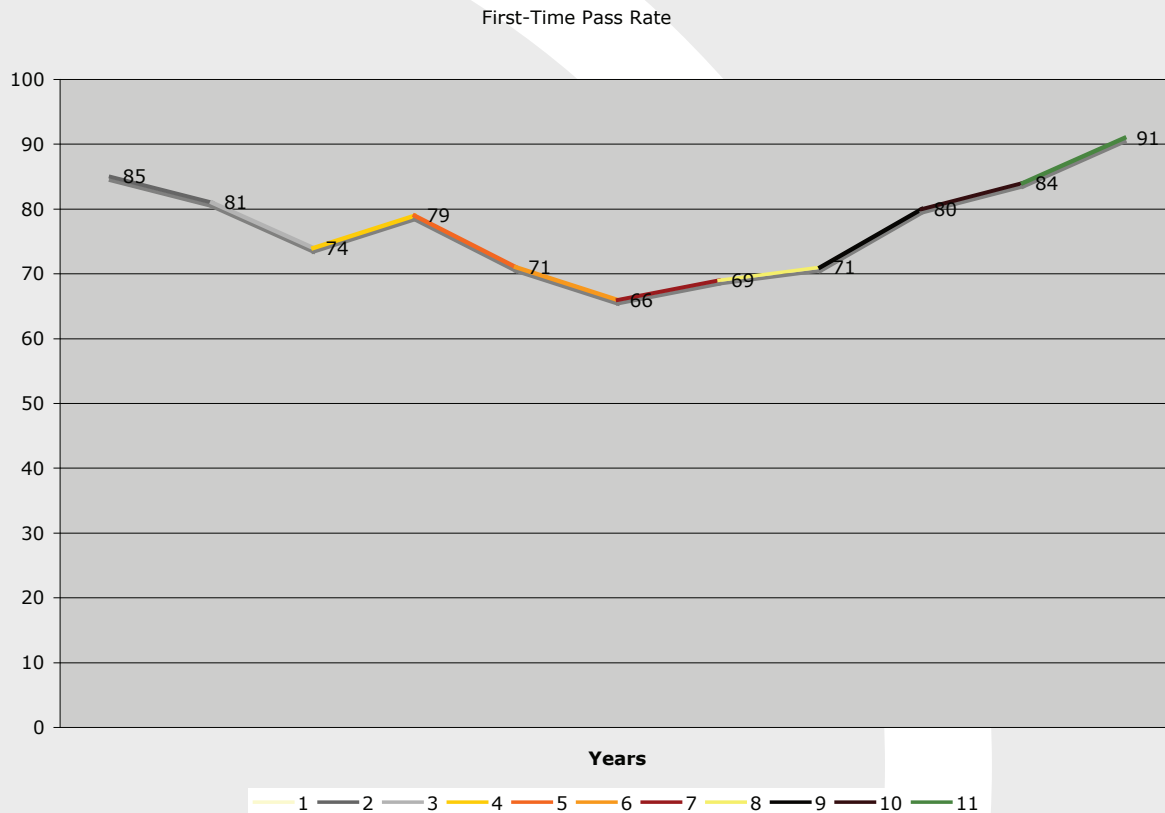
asking, for example, graduates to provide a legal opinion to a partner or a law clerk opinion to an appellate judge rather than merely a recitation of relevant issues and rules. In sum, the essay exam requires graduates to demonstrate competency in the role of attorneys in by demonstrating concrete written problem-solving strategies.

In addition, the performance tests, which ask graduates to timely solve lawyer tasks based on legal materials such as cases, statutes, and regulations, have shifted some of its focus to include not just letters, office memorandums, and persuasive legal briefs but also alternative dispute resolution documents too. For example, the most recent exam administration in February 2010 required graduates to draft a dispute resolution document in preparation for a court-ordered settlement conference. In order to successfully achieve success on the performance test portion of the bar exam, graduates must be able to demonstrate legal analysis skills such as such as case synthesis, deductive reasoning, and analogical reasoning, extension of problem-solving abilities into novel areas, critical thinking skills, good judgment, professional identity, time management skills, effective written communication skills to adeptly predict various legal outcomes. In short, the performance test portion of the bar exam provides an experiential measurement of one's skills to think and write as a lawyer.

The final component of the bar exam – the multiple-choice test – has likewise increased in complexity and difficulty. As background, the multiple-choice exam tests problem-solving skills in seven core subjects – Contracts/Sales, Constitutional Law, Criminal Law, Criminal Procedure, Evidence, Property, and Torts – with 1.8 minutes allocated per question for solution time. Recently, the multiple-choice test adjusted the exam to add a new sub-topic, mortgages, which requires additional preparation by graduates who might not have studied this subject in law school. In addition, the exam has started to emphasize criminal procedure by increasing the number of questions asked on the exam. Finally, the exam interjects civil procedure into the problem-solving calculus by often asking graduates to determine, for example, whether the court should grant plaintiff's motion for a directed verdict, defendant's motion for a directed verdict, neither parties' motion for a directed verdict, or both parties' motion for a directed verdict. In sum, the Colorado Bar Exam has undergone fundamental changes that make the exam much more experiential in nature and wider in breath of coverage in comparison to pre-July 2009 test administrations.

Historically, over the past decade since 1999, DU graduates performance on the Colorado Bar Exam can best be described as a U-curve with graduates over-performing statistical predictors of bar exam performance in the extremes of the period while under-performing performance predictors in the middle of the decade as shown by the chart below. In particular, ten years ago DU graduates passed the Colorado Bar Exam at a first-time bar passage rate of 85 percent. Over the next several years, the pass rate dropped steadily to a low of just two-thirds of graduates successfully passing the bar exam on the first attempt in the summer of 2004. Starting around 2007, the law school adopted a bar passage implementation plan to address bar passage concerns with bar passage now standing at a ground-breaking 91 percent based in July 2009, which marks a significant over-performance of statistical predictors of bar passage for the class as a whole and does not yet reflect sweeping changes with respect to reduction in class size or increases in admissions criteria.

## DU Historical First-Time Bar Passage Rates 1999-2009



The successes on the most recent bar exam administration are reflective of a great many of contributing factors. For example, faculty significantly raised the grade point average required for continued academic standing and graduation and approved and implemented two new courses designed primarily to assist students in legal analysis and bar passage. As background, Intermediate Legal Analysis provides second year students with instruction in analytical skills in a particular substantive course that students experienced in their first-year curriculum. The course utilizes multiple short-writing assignments and enrollment is limited to 30 students per section. For third year students, Legal Analysis Strategies provides final semester students with instruction in core bar exam subjects (constitutional law, torts, real property, evidence, contracts/sales, and criminal law/procedure, e.g.) and teaches test taking strategies encompassing all three bar exam formats (essays, multiple-choice questions, and performance tests). In addition, the law school now requires students with grade point averages below 2.6 to meet with the director of Academic Achievement to plan a course of conduct to improve student performance, to take Intermediate Legal Analysis if grade point falls below 2.6 after the first-two semesters of law school, or take Legal Analysis Strategies if grade point falls below 2.6 in the last year of law school. In addition, students with grade points below 2.6 are restricted to primarily core and practitioner subjects with the exception of one course per semester. In addition, in the summer of 2007, the law school created the DU Bar Success Program to supplement commercial bar exam courses that nearly all graduates take in preparation for the bar exam.

As background, the DU Bar Success Program is available to all graduating students and alumni, providing instruction, coaching, and feedback throughout the two-month study period immediately prior to the bar exam to provide learning opportunities beyond those provided by commercial courses. In particular, the supplemental schedule is built to take advantage of the substantive coverage of commercial courses rather than replicate any of the work that graduates are completing through commercial offerings. Thus, the series includes a variety of strategic workshops, practice mock bar exams, individual consultations, and timely feedback on writing assignments. The population of participating students consisted of both first-time takers and repeat takers with services provided to both groups. The overall pedagogy of the program provides mid-range and at-risk students with the necessary components for realizing success on the bar exam that are often missing from most commercial bar review courses – timely, consistent, and recurrent individual feedback to accurately detect and correct deficiencies, individual and corporate empowerment and a sense of responsibility, and practical experience in overcoming exam stress, time management issues, and confidence-related issues through administration of a series of mini-mock bar exams. In general, the program consists of approximately 13 subject matter workshops (providing group opportunities to write and examine sample answers and strategies common to various subjects), bar-related strategy presentations (providing resources on study strategies, etc.), and 4 half-day mock bar exams and 1 full-day mock bar exam (simulating exam logistics and stresses). The subject matter workshops provided students with opportunities to write about 13 essay answers, open-book, under the guidance of faculty leadership. The bar related presentations consisted of an orientation session, a multiple choice tune-up workshop, and a performance test tune-up workshop. During the mock bar exams, students are provided the opportunity to complete a total of 2 multiple-choice 100 question exams and a variety of approximately 16 performance test and essay questions under simulated exam conditions. In general, workshops are attended by about 90-100 graduates with mock bar participation at around 100-130 graduates per session. In sum, the DU Bar Success Program focuses on the critical components in successfully preparing for success on the bar exam: constructive individual feedback on essays and performance tests throughout the bar review study period, multiple opportunities to sit for simulated mock bar exams, and developing a sense of community empowerment to help graduates persevere and surmount difficulties encountered in facing the stresses of a large-scale, high-stakes test for admission to the practice of law.

As part of the assessment process, the law school – working with Corona Research – undertook a preliminary analysis of the July 2008 DU Bar Success Program. In July 2008, the law school achieved an overall bar passage rate of 84 percent among first-time takers. Notably, the DU Bar Success program realized widespread participation across demographic groups and seems to result in overall increased performance for many of our graduates. In particular, the overall participation rate for all DU first-time takers on the July 2008 Colorado Bar Exam was 70 percent with highest participation seen among women (78 percent) and minorities (77 percent) while the lowest participation was among part-time students (56 percent) and men (64 percent).

### Summer 2008 DU Bar Success Participation Rates

*(Data adapted from Corona Research)*

Group	Total Bar Success Participants	Total Bar Success Non-Participants	Overall Participation Rate
All	150	64	70%
Women	76	22	78%
Men	74	42	64%
Minorities	30	9	77%
Whites	120	55	69%
Full-Time Status	132	50	73%
Part-Time Status	18	14	56%

The preliminary analysis also suggested that July 2008 DU Bar Success participants realized an overall differential advantage in achieving superior bar passage rates in contrast to non-participants for all sub-groups of participants except for part-time students, with most groups realizing a boost in performance of over 10 percentage points. Though the data was largely not statistically significant due to limitations based on sample sizes, the data suggested that the program had possible beneficial relationships as overall participants successfully passed the bar exam at a rate of thirteen percentage points above non-participants. As sample sizes historically increase in longitudinally, it should be possible to achieve statistically significant data to aid in testing the strengths of possible relationships among bar success participation and passage rates.

### Summer 2008 DU Bar Success Bar Passage Rates

*(Data adapted from Corona Research)*

Group	Differential Benefit of Bar Success Participation
All	13%
Women	16%
Men	13%
Minorities	17%
Whites	13%
Full-Time Status	15%
Overall July 2008 Pass Rate	84%

Most recently, in July 2009, DU graduates achieved the highest overall bar passage rate in recent memory with an overall bar passage rate of 91%. As illustrated below, the DU Bar Success Program increased the percentage of participants over the previous year by five percent with an overall rate of 75% of graduates participating in the bar success program as a supplemental tool in preparation for the July 2009 bar exam. In addition, as in the previous year, DU Bar Success participants seemed to enjoy an advantage in achieving a superior overall bar passage rate of 8 percentage points in comparison to non-participants. As total participation rates increase in future years, we should see a corresponding benefit to bar success participation.



In addition, the law school is currently examining the relationships among various demographic groups for statistically significant relationships as in the previous year with reporting of results due in the fall 2010 semester.

### Summer 2009 DU Bar Success Combined Overall Participation and Bar Passage Rates

<b>Total Bar Takers</b>	<b>Total Bar Success Participants</b>	<b>Total Bar Success Non-Participant</b>	<b>Overall Participation Rate</b>
232	174	58	75%
<b>Overall Pass Rate</b>	<b>Pass Rate for Bar Participants</b>	<b>Pass Rate for Bar Success Non-Participants</b>	<b>Differential Benefit of Bar Success Success Participation</b>
91%	93%	85%	8%

In sum, the programmatic changes implemented by the faculty to timely intervene with those students identified having potential difficulties based on law school performance, dismiss students not demonstrating the level of performance that would allow the school to ethically permit continued studies, and increase overall bar passage performance for the class as a whole. Since the low bar passage mark in 2004, the law school's pass rate has climbed consecutively for five administrations to its current rate of 91 percent for first-time takers. As an impressive improvement, many of the changes that the law school has made have not yet manifested in bar passage. For example, the admissions policy was not changed prior to the 2007-2008 academic year. Thus, we can expect the bar pass rate to continue to improve in the years to come. The law school is committed to implementing bar passage efforts based on all of the available data and evidence. Toward this end, we continue to collect data on all of our students and bar exam successes to allow us to analyze the steps taken thus far for the purpose of monitoring and assessing the impact of each of these steps on the bar exam successes of our graduates. Please feel free to contact Professor Scott Johns, Director of the DU Bar Success Program, at [sjohns@law.du.edu](mailto:sjohns@law.du.edu), for more information.